

105TH CONGRESS  
2D SESSION

# S. 1913

To require the Secretary of the Interior to sell leaseholds at the Canyon Ferry Reservoir in the State of Montana and to establish a trust and fund for the conservation of fish and wildlife and enhancement of public hunting and fishing opportunities in the State.

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## IN THE SENATE OF THE UNITED STATES

APRIL 2, 1998

Mr. BAUCUS (for himself and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To require the Secretary of the Interior to sell leaseholds at the Canyon Ferry Reservoir in the State of Montana and to establish a trust and fund for the conservation of fish and wildlife and enhancement of public hunting and fishing opportunities in the State.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Montana Fish and  
5       Wildlife Conservation Act of 1998”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

1           (1) it is in the interest of the United States for  
2           the Secretary of the Interior to sell leaseholds at  
3           Canyon Ferry Reservoir in the State of Montana for  
4           fair market value if the proceeds from the sale are  
5           used—

6                   (A) to establish a trust to provide a perma-  
7           nent source of funding to acquire access or  
8           other property interests from willing sellers to  
9           conserve fish and wildlife and to enhance public  
10          hunting and fishing opportunities at the Res-  
11          ervoir and along the Missouri River;

12                   (B) to establish a fund to be used to ac-  
13          quire access or other property interests from  
14          willing sellers to increase public access to Fed-  
15          eral land in the State of Montana and to en-  
16          hance hunting and fishing opportunities; and

17                   (C) to reduce the Pick-Sloan project debt  
18          for the Canyon Ferry Unit;

19          (2) existing trusts in the State of Montana, in-  
20          cluding the Rock Creek Trust and the Montana  
21          Power Company Missouri-Madison Trust, have pro-  
22          vided substantial public benefits by conserving fish  
23          and wildlife and by enhancing public hunting and  
24          fishing opportunities in the State of Montana;

1           (3) many Federal lands in the State of Mon-  
2           tana do not have suitable public access, and estab-  
3           lishing a fund to acquire easements to those lands  
4           from willing sellers would enhance public hunting  
5           and fishing opportunities in the State of Montana;

6           (4) the sale of the leaseholds at the Reservoir  
7           will reduce Federal payments in lieu of taxes and as-  
8           sociated management expenditures in connection  
9           with the ownership by the Federal Government of  
10          the leaseholds while increasing local tax revenues  
11          from the new owners of the leased lots; and

12          (5) the sale of the leaseholds at the Reservoir  
13          will reduce expensive and contentious disputes be-  
14          tween the Federal Government and leaseholders,  
15          while ensuring that the Federal Government receives  
16          full and fair value for the acquisition of the prop-  
17          erty.

18 **SEC. 3. DEFINITIONS.**

19       In this Act:

20           (1) CFRA.—The term “CFRA” means the  
21           Canyon Ferry Recreation Association, Incorporated,  
22           a Montana corporation.

23           (2) FUND.—The term “Fund” means the Mon-  
24           tana Hunter and Fisherman Access Fund estab-  
25           lished under section 6(a).

1           (3) LESSEE.—The term “lessee” means the  
 2           holder of a leasehold described in section 4(b) as of  
 3           the date of enactment of this Act, and the holder’s  
 4           heirs, executors, and assigns of the holder’s lease-  
 5           hold interest.

6           (4) PURCHASER.—The term “Purchaser”  
 7           means the person or entity that purchases the 265  
 8           leaseholds under section 4.

9           (5) RESERVOIR.—The term “Reservoir” means  
 10          the Canyon Ferry Reservoir in the State of Mon-  
 11          tana.

12          (6) SECRETARY.—The term “Secretary” means  
 13          the Secretary of the Interior.

14          (7) TRUST.—The term “Trust” means the Can-  
 15          yon Ferry-Missouri River Trust established under  
 16          section 5(a).

17 **SEC. 4. SALE OF LEASEHOLDS.**

18          (a) IN GENERAL.—Subject to subsection (c) and not-  
 19          withstanding any other provision of law, the Secretary  
 20          shall sell at fair market value—

21               (1) all right, title, and interest of the United  
 22               States in and to all (but not fewer than all) of the  
 23               leaseholds described in subsection (b), subject to  
 24               valid existing rights; and

25               (2) easements for—

1 (A) vehicular access to each leasehold;

2 (B) access to and the use of 1 dock per  
3 leasehold; and

4 (C) access to and the use of all boathouses,  
5 ramps, retaining walls, and other improvements  
6 for which access is provided in the leases as of  
7 the date of this Act.

8 (b) DESCRIPTION OF LEASEHOLDS.—

9 (1) IN GENERAL.—The leaseholds to be con-  
10 veyed are—

11 (A) the 265 cabin sites of the Bureau of  
12 Reclamation located along the northern portion  
13 of the Reservoir in portions of sections 2, 11,  
14 12, 13, 15, 22, 23, and 26, Township 10 North,  
15 Range 1 West; plus

16 (B) any small parcels contiguous to the  
17 leaseholds (not including shoreline property or  
18 property needed to provide public access to the  
19 shoreline of the Reservoir) that the Secretary  
20 determines should be conveyed in order to elimi-  
21 nate inholdings and facilitate administration of  
22 surrounding land remaining in Federal owner-  
23 ship.

1           (2) ACREAGE; LEGAL DESCRIPTION.—The acre-  
 2           age and legal description of each property shall be  
 3           agreed on by the Secretary and the Purchaser.

4           (c) PURCHASE PROCESS.—

5           (1) IN GENERAL.—The Secretary shall—

6                   (A) solicit sealed bids for all of the lease-  
 7                   holds; and

8                   (B) subject to paragraph (2), sell the  
 9                   leaseholds to the bidder that submits the high-  
 10                  est bid above the minimum bid determined  
 11                  under paragraph (2).

12           (2) MINIMUM BID.—Before accepting bids, the  
 13           Secretary, in consultation with interested bidders,  
 14           shall establish a minimum bid based on an appraisal  
 15           of the fair market value of the leaseholds, exclusive  
 16           of the value of private improvements made by the  
 17           leaseholders before the date of the conveyance, by  
 18           means of an appraisal conducted in accordance with  
 19           the appraisal procedures used under Federal law, in-  
 20           cluding, to the extent practicable, the procedures  
 21           specified in sections 2201.3 through 2201.3–5 of  
 22           title 43, Code of Federal Regulations.

23           (3) RIGHT OF FIRST REFUSAL.—If the highest  
 24           bidder is other CFRA, CFRA shall have the right to

1 match the highest bid and purchase the leaseholds  
2 at a price equal to the amount of that bid.

3 (d) CONDITIONS.—

4 (1) CONSIDERATION.—As consideration for the  
5 conveyance under subsection (a), the Purchaser  
6 shall—

7 (A) contribute to the Trust the amount  
8 that is equal to 45 percent of the purchase  
9 price of the leaseholds;

10 (B) contribute to the Fund the amount  
11 that is equal to 45 percent of the purchase  
12 price of the leaseholds; and

13 (C) pay the Secretary for deposit in the  
14 Treasury of the United States an amount that  
15 is equal to 10 percent of the purchase price of  
16 the leaseholds.

17 (2) NO CHARITABLE DEDUCTION.—The Pur-  
18 chaser, any owner, member, or other interest holder  
19 in the Purchaser, and any leaseholder shall not be  
20 entitled to a charitable deduction under the Internal  
21 Revenue Code of 1986 by reason of the making of  
22 the contribution under subparagraph (A) or (B) of  
23 paragraph (1).

24 (3) OPTION TO PURCHASE.—

1 (A) IN GENERAL.—The Purchaser shall  
 2 give each leaseholder of record of a leasehold  
 3 conveyed under this section an option to pur-  
 4 chase the leasehold at fair market value.

5 (B) NONPURCHASING LESSEES.—

6 (i) RIGHT TO CONTINUE LEASE.—A  
 7 lessee that is unable or unwilling to pur-  
 8 chase a property shall be permitted to con-  
 9 tinue to lease the property for fair market  
 10 value rent under the same terms and con-  
 11 ditions as the existing leases, including the  
 12 right to renew the term of the existing  
 13 lease for 2 consecutive 5-year terms.

14 (ii) COMPENSATION FOR IMPROVE-  
 15 MENTS.—If a lessee declines to purchase a  
 16 leasehold, the Purchaser shall compensate  
 17 the lessee for the full market value of the  
 18 improvements made to the leasehold.

19 (4) HISTORICAL USE.—The Purchaser shall  
 20 honor the existing property descriptions and histori-  
 21 cal use restrictions for the leaseholds, as determined  
 22 by the Bureau of Reclamation.

23 (e) ADMINISTRATIVE COSTS.—Any administrative  
 24 cost incurred by the Secretary incident to the conveyance



1 under subsection (a) shall be reimbursed by the Pur-  
 2 chaser.

3 **SEC. 5. CANYON FERRY-MISSOURI RIVER TRUST.**

4 (a) ESTABLISHMENT.—The Secretary shall encour-  
 5 age establishment of a nonprofit charitable permanent  
 6 perpetual trust, similar in structure and purpose to the  
 7 existing trusts referred to in section 1(2), to be known  
 8 as the “Canyon Ferry-Missouri River Trust”, to provide  
 9 a permanent source of funding to acquire land and inter-  
 10 ests in land from willing sellers at fair market value to  
 11 conserve fish and wildlife, enhance public hunting and  
 12 fishing opportunities, and improve public access at the  
 13 Reservoir and along the Missouri River and its tributaries  
 14 from the confluence of the Madison River, Gallatin River,  
 15 and Jefferson River downstream to the Reservoir.

16 (b) BOARD OF TRUSTEES.—

17 (1) MEMBERSHIP.—The trust referred to in  
 18 subsection (a) shall have a Board of Trustees con-  
 19 sisting of 1 representative of each of—

- 20 (A) local agricultural landowners;
- 21 (B) a local hunting organization;
- 22 (C) a statewide hunting organization;
- 23 (D) a fisheries conservation organization;
- 24 and

1 (E) a nonprofit land trust or environ-  
2 mental organization.

3 (2) CONSULTATION.—In managing the Trust,  
4 the Board of Directors shall consult with representa-  
5 tives of—

6 (A) the Bureau of Reclamation;

7 (B) the Forest Service;

8 (C) the Bureau of Land Management;

9 (D) the United States Fish and Wildlife  
10 Service;

11 (E) the Montana Department of Fish,  
12 Wildlife, and Parks;

13 (F) the Montana Science Institute at Can-  
14 yon Ferry, Montana; and

15 (G) local governmental bodies (including  
16 the Lewis and Clark and Broadwater County  
17 Commissioners).

18 (c) USE.—

19 (1) PRINCIPAL.—The principal amount of the  
20 Trust shall be inviolate.

21 (2) EARNINGS.—Earnings on amounts in the  
22 Trust shall be used to carry out subsection (a) and  
23 to administer the Trust.

1 (d) MANAGEMENT.—Land and interests in land ac-  
 2 quired under this section shall be managed for the pur-  
 3 poses described in subsection (a).

4 **SEC. 6. MONTANA HUNTER AND FISHERMAN ACCESS FUND.**

5 (a) ESTABLISHMENT.—There is established in the  
 6 Treasury of the United States an interest-bearing account,  
 7 to be known as the “Montana Hunter and Fisherman Ac-  
 8 cess Fund”, for the purpose of acquiring land and inter-  
 9 ests in land in the State of Montana from willing sellers  
 10 at fair market value to—

11 (1) improve public access to Federal land in the  
 12 State of Montana for hunting or fishing; and

13 (2) enhance public hunting and fishing opportu-  
 14 nities in the State of Montana through the conserva-  
 15 tion of fish and wildlife.

16 (b) USE.—

17 (1) PRINCIPAL.—The principal amount of the  
 18 Fund shall be inviolate.

19 (2) EARNINGS.—

20 (A) IN GENERAL.—Earnings on amounts  
 21 in the Fund shall be used to carry out sub-  
 22 section (a).

23 (B) ADMINISTRATION.—The earnings shall  
 24 be used at the joint direction of—

25 (i) the Chief of the Forest Service;

1 (ii) the Director of the Bureau of  
2 Land Management; and

3 (iii) the Director of the United States  
4 Fish and Wildlife Service.

5 (c) MANAGEMENT.—Land and interests in land ac-  
6 quired under this section shall be managed for the pur-  
7 poses described in subsection (a).

